

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ENVIRONMENTAL DEFENSE FUND;
MONTANA ENVIRONMENTAL
INFORMATION CENTER; and CITIZENS
FOR CLEAN ENERGY,

Plaintiffs,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY; and ANDREW R. WHEELER, in
his official capacity as Administrator of
the U.S. Environmental Protection
Agency,

Defendants.

Case No. 4:21-cv-00003-BMM

The Honorable Brian Morris,
Chief Judge

INTRODUCTION

Defendants seek vacatur and remand of the final rulemaking entitled “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” 86 Fed. Reg. 469-01 (Jan. 6, 2021) (“Final Rule”). Defendants explain that in light of the Court’s conclusion that the Final Rule constitutes a substantive rule, the Environmental Protection Agency lacked authorization to promulgate the rule pursuant to its housekeeping authority, which is the only source of authority identified in the Final Rule. Accordingly, Defendants

state that vacatur and remand of the Final Rule is appropriate under the circumstances. Plaintiffs do not oppose this request.

ORDER

Accordingly, **IT IS SO ORDERED** that:

- Defendants' Unopposed Motion for Vacatur and Remand is **GRANTED.**
- The Final Rule is hereby vacated and remanded to the Environmental Protection Agency.

Dated the 1st of February, 2021.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court